IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION (BAIL) NO. 306 OF 2006

MANOHAR GAVANDALKAR, THROUGH HIS NEXT KIN SHRI. RUPESH GAVANDALKAR ....Appellant

Versus

STATE THROUGH WOMEN'S POLICE STATION AND ANR., ...Respondents

Mr. Nitin Sardessai, Advocate, with Mr. Vivek Rodrigues, Advocate for the Appellant.

Mr. C. A. Ferreira, Public Prosecutor for the State.

Coram:- N. A. BRITTO, J.

Date:- 24th August, 2006

P.C.

Heard Shri Sardessai, the learned Counsel on behalf of the applicant and Shri Ferreira, the learned Public Prosecutor on behalf of the respondent.

2. As regards an incident which took place on 18.07.2006, Crime no. 2/06, came to be registered against the applicant on 17.08.2006 under Section 293, 504 and 506 I.P.C. and Section 8 (2) of the Goa Children's Act, 2003. The said crime came to be registered upon a complaint by Smt. Sumitra T. Chari, the mother of the two children to whom the accused is alleged to have given an indecent CD. The applicant was arrested on 19.08.2006. After the arrest, the applicant moved the Children's Court for bail but his application came to be rejected by Order dated 22.08.2006.

3. The applicant has therefore moved this Court for bail. There is no dispute that the offences alleged against the applicant in relation to I.P.C.

are all bailable. It is submitted on behalf of the applicant that Section 8(2) of the Goa Children's Act, 2003, is not at all attracted to the facts of the case. It is also submitted that an offence under Section 8(2) of the Goa Children's Act, 2003, is otherwise made punishable with imprisonment of either description for a term that may extend to three years and fine of Rs.1,00,000/-. It is also submitted on behalf of the applicant that the CD in question has already been seized and so also the scene of offence panchanama has been made and statements of the witnesses have been recorded and, therefore, further detention of the applicant in custody is not called for.

4. It would be improper at this stage to find out whether Section 8(2) of the Goa Children's Act, 2003, is attracted or not to the facts of the case since any finding in that regard is bound to come in the way of further inquiry or trial of the accused. In the reply filed, on behalf of the respondent, before the Children's Court, it was stated that in case the applicant is released on bail, there was every possibility that the applicant may hamper with the evidence by issuing threats to the witnesses. In the reply filed before Children's Court as well as this Court, it has been stated that the presence of the accused is necessary to find out the source of the said CD.

5. Considering the facts of the case and the nature of punishment provided, in my view, no further detention of the applicant would be necessary since the investigations into the alleged incident have been practically completed. It also appears that although the applicant was taken in custody on 19.08.2006, most of the time, the Investigating Officer has been busy taking the applicant to GMC for medical treatment.

6. Hence, the accused is admitted to bail with the following conditions:

(i) The applicant shall appear before the Police Station, for the next three days for further interrogation and investigations, if required, by the

Investigating Officer.

(ii) The applicant shall not directly or indirectly interfere with the witnesses whose statements have been recorded.

7. The applicant on the above terms and conditions shall be released on bail upon execution of a bond of Rs.10,000/- with one surety in the like amount to the satisfaction of the Presiding Officer of the Children's Court, Panaji.

N. A. BRITTO, J.

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